

Written Statement of Mrs. Tammy Kimmel
House Committee on Veterans Affairs
June 23, 2004

I would like to thank the Committee for the opportunity to tell my story and present this statement regarding the Servicemembers Civil Relief Act.

In August of 2003 my husband and I signed an 11-month lease on a property with Colonial Real Estate and Property Management in Killeen, Texas. My husband is SFC James Kimmel Jr. He has been an enlisted service member with the Army for 21 years. He was sent to Fort Hood for UFTP training with the 2d Squadron 6th U.S. Cavalry. This training was expected to last no longer than 1 year and then we would PCS to Illesheim, Germany. The lease that we signed had a PCS clause in it allowing us to get out of the lease for a PCS move and only pay a \$45.00 administration fee.

On Wednesday, March 31, I went to the Colonial Office and wrote up a 60 day "Notice of Intent to Vacate" and turned in my husband's PCS orders. Three office staff members starting talking to me all at once they were telling me that I could not be released from the lease. They were all telling me different things I could do and handing me paperwork, so it's difficult to say everything that was said to me. The office staff informed me that because of the new "Servicemembers Civil Relief Act" that was passed in December of 2003 they could no longer let the spouse out of a lease early. The office staff said that only the active duty military member would be released from the lease. I reminded them that we had a PCS clause in our contract. The response was "the new law supercedes all previous laws and contracts". They continued on to say they have tried to find a way to let people out of the lease but there is nothing they can do because their business could be closed if they violate the federal law. I told them I was going to go to the legal office at Fort Hood and they said that JAG had already contacted them regarding other families that they have done this to and they don't care what JAG says because JAG has their own interpretation of the law. Mrs. Cooney gave me a copy of part of the "Servicemembers Civil Relief Act" with parts of section 305 and 308 highlighted and said that those sections pertain to a PCS move. They gave me the following list of things I could do:

1. Go to court and prove that it is a hardship for me not to be able to go with my husband at the time he moves to Germany.
2. They could contact the owner of the property to see if she would let me out of the lease.
3. I could find my own renters for the property and pay a \$100.00 administration fee for breaking the lease early.
4. I could pay 85% of the rent for the two months remaining on the lease and then Colonial would start the process of renting the property.

I refused to do any of these because I believed their interpretation of the law was incorrect. I am totally appalled that a law that is meant to protect service members was used against us when we needed it the most. The special provisions in our lease state "\$45.00 admin fee will be charged on all ETS, PCS moves. \$100.00 admin fee will be charged on all early move-outs except ETS, PCS and when the re-letting fee is charged"

On March 31 I found an article in the April 5th Army Times titled "Law Weaves Stronger Safety Net on Leases, Evictions". I contacted the writer of the article, Karen Jowers, and informed her

of our situation. She said that this is just beginning to happen and the Pentagon was aware of it. She told me to contact our legal department at Fort Hood and see how they could help me. Karen did a story about our situation in the next issue of the Army times. Karen contacted both the rental office and their attorney regarding their policy about PCS moves.

On Tuesday, April 6th, Karen contacted Colonial Real Estate who referred her to their company attorney, Mr. Cleff. The attorney told Karen that Colonial DOES let families out of leases for a PCS move. Karen informed Mr. Cleff of my situation and he said he would look into it. On Wednesday, April 7th, Karen called me again to see if I had heard from Colonial. I told her that I had not. She asked me to call Colonial and see if anything had changed. I called Colonial at 09:00 and was told that nothing had changed and I would not be released from the lease early. I relayed this information to Karen who said she would contact the attorney again for his input. At 10:00 Mrs. Cooney left a message on my voicemail that she was very happy to tell me that they found a way to let me out of the lease and I shouldn't worry about anything that everything was in order and I would be released the same as my husband. I was never told the reason why they decided to let me out of the lease. That afternoon I was able to meet with CPT Samuel Gregory in III Corps Legal. I informed CPT Gregory that Colonial had left a message that they found a way to let us both out of the lease. CPT Gregory informed me that JAG has extensive complaints on Colonial and that they have many ongoing problems and was trying to put them "off limits to soldiers". CPT Gregory also said that Colonial often times changes inspection times so that the soldier/spouse isn't available for the move out inspection. He told me to make sure to put it in writing a few weeks before the appointment and send them a confirmation letter regarding the inspection time. He told me to make sure I document everything that happens with Colonial regarding the move out.

From June 1st through June 8th Colonial changed our move out inspection date and played numerous games regarding our inspection. On June 8th my husband's First Sergeant, Eric Hagan and CPT Deirdre Brou of III Corps Legal attended our move out inspection. The inspector, Mary, was very hostile towards us while doing the inspection and she tried to make our witnesses leave. The inspector went back to the house (without us) a third time on June 9th with a contractor who is claiming that we did damage to the walls, doors, and floors and then repaired that damage. Everything they said is already written up in our move in inspection, yet Mary claims it is all new damage.

All of these problems have created a financial and emotional stress on our family. It is already very stressful for a family to complete a military move. This move to Germany is our third in four years. I hope that the law can be clarified so that no other families have to go through this type of stress and financial strain.

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